

MINUTES OF THE CITIZENS CODE ENFORCEMENT BOARD
HEARING
HELD AT 4:30 P.M. – AUGUST 16, 2011
CITY COMMISSION CHAMBERS, CITY HALL,
210 SAMS AVE, NEW SMYRNA BEACH, FLORIDA

- I. The Hearing of August 16, 2011, was called to order at 4:30 p.m. Answering to roll call were:

John Shelby (Chairman)
Michael Slayton (Vice Chair)
Beverly Palmer
Pat Arvidson
Katharine Cooley

Also present were Code Enforcement Officer Barbara Bobelak, Assistant City Attorney Greg McDole, Chief Building Official Michael Knotek and Permit & License Technician Dorlisa Pogany. Megan Badgley was absent.

II. **DISCLOSURE OF EX PARTE COMMUNICATIONS:**

Members of the Citizens Code Enforcement Board were asked to please disclose, for the record, the substance of any ex parte communications that occurred prior to this public hearing.

Mr. Shelby stated that there were none.

III. **APPROVAL OF MINUTES**

April 19, 2011

Ms. Arvidson made a motion to approve the minutes of the April 19, 2011 hearing as written; seconded by Ms. Palmer. Motion passed on roll call vote 5-0.

July 19, 2011

Mr. Slayton made a motion to approve the minutes of the July 19, 2011 hearing as written; seconded by Ms. Arvidson. Motion passed on roll call vote 5-0.

IV. **SWEARING OF CITY STAFF**

Barbara Jo Bobelak, Code Enforcement Officer, and Michael Knotek, Chief Building Official were sworn in for testimony.

V. OLD BUSINESS:

C2011-0229

Dennis C. Hadick

900 N Atlantic Ave

- A) Exterior surfaces that have not been maintained in good repair and free of holes, cracks, and deterioration in violation of §26-914 (2) of the City Code of Ordinances.
- B) Exterior surfaces that have not been maintained with a protective coating in violation of §26-914 (3) of the City Code of Ordinances.
- C) Exterior attachments, gutters, soffit, downspouts, lighting fixtures and utility connections that have not been maintained in good repair in violation of §26-914 (5) of the City Code of Ordinances.

July 19, 2011: The Board entered an Order finding the property in non-compliance and gave Dennis Hadick 30 days to bring the property into compliance or face a fine of \$100.00 (\$25 per violation) per day for each and every day the property is in non-compliance.

Mr. Shelby noted for the record that no one was present to represent this case.

Mr. Shelby asked staff for a recommendation.

Officer Bobelak stated Mr. Hadick met with the City on July 25, 2011 to review the Board Order and the property was brought into compliance on July 27, 2011. Staff recommends the Board find Mr. Hadick in compliance.

Ms. Cooley made a motion to find case C2010-1105 in compliance as of July 27, 2011; second by Ms. Arvidson. Motion carried unanimously upon roll call 5-0.

C2011-0357:

GBL Properties LLC,

219 Washington St., Apt: A, B, C

- A) Two (2) or more rental units without the City business license tax receipt in violation of §74-146. Of the City Code of Ordinances.
- B) Electrical system hazards in violation of §604.3 of the 2006 International Property Maintenance Code.
- C) Electrical equipment installation, receptacles, and luminaries in violation of §605.1 & 605.2 & 605.3 of the 2006 International Property Maintenance Code.
- D) Plumbing system hazards in violation of §504.3 of the 2006 International Property Maintenance Code.
- E) Water system that has not been properly connected and maintained in violation of §505.1 of the 2006 International Property Maintenance Code.
- F) Openings in the exterior envelope in violation of §304.6 of the 2006 International Property Maintenance Code.
- G) Accumulation of rubbish and garbage in violation of §307.1 of the 2006 International Property Maintenance Code.

July 19, 2011: The Board entered an Order to fine GBL Properties LLC, \$250 per day and to refer this case to the Building Trade Board for further action. Fine totaling \$7000.00 for a total of 28 days as of today.

Mr. Shelby noted for the record that no one was present to represent this case.

Mr. Shelby asked staff for a recommendation.

Officer Bobelak stated that to date no one has contact the City and staff recommends that the fine continues until the property is brought into compliance.

Discussion ensued among Staff and the Board regarding the continuance of the fine, date for the Building Trades Board, if property taxes paid, close the case and definition of close case and assess lien.

Mr. Slayton made a motion to close case C2011-0357, send case to Building Trades Board and lien property for \$7000.00 for non-compliance to August 16, 2011; seconded by Ms. Cooley. Motion carried unanimously upon roll call, 5-0.

**C2011-0199: McCharacter's Music Café & Sports Bar
2004 N. Dixie Freeway**

- A) Semi trailer that has been converted to a temporary stage in violation of §107 Temporary Structure and Uses of the Florida Building Code.
- B) Additional outdoor seating exceeds the number of parking spaces allotted for the property in violation of §604.10. G. Exceeding the minimum number of required parking spaces of the Land Development Regulations.

July 19, 2011: The Board entered an Order to find case C2011-0199 Item B in compliance as of July 19, 2011 and fine them a total of \$1000 for the 25 days of non-compliance and Item A to remove the semi trailer and assess a fine of \$250 per day until property is in compliance starting immediately. Fine totaling \$7000.00 for a total of 28 days as of today for Item A.

Jason Temple and Mike Hickey, representatives for Martin McCarrick, the owner were present and sworn in for testimony.

Mr. Temple stated Mr. Hickey contacted the Chief Building Official, Mike Knotek regarding a temporary structure permit for the semi-trailer which took the City approximately 2 weeks to research. Mr. Temple stated the City could not issue a temporary structure permit per the Florida Building Codes so the trailer was advertised for sale. Mr. Temple further stated the semi-trailer was in the process of being sold when Mr. McCarrick discovered it was a scam so the deal fell through.

Mr. Temple stated that Mr. Hickey has contacted a local tow company to have the semi-trailer removed and stored off site. He further stated that the trailer will be removed by 5 PM on Friday, August 19, 2011.

Mr. Shelby asked staff for a recommendation.

Officer Bobelak stated the semi-trailer has been on the property prior to and since the hearing so the property has been in non-compliance resulting in a \$7000 fine. Officer Bobelak further stated since they did try to obtain a temporary structure permit but could not; the fine should be reduced to \$3500.

Discussion ensued among Staff, the Board and the Representatives regarding the continuance of the fine, explanation of the temporary permit, length of time for City decision, deletion of fine, removing semi-trailer, existing parking, compliance date and changing previous Board Order.

Mr. Slayton made a motion to reduce the \$1000 fine to zero and find Item B in compliance; seconded by Ms. Arvidson. Motion carried unanimously upon roll call, 5-0.

Discussion ensued among Staff and the Board regarding the semi-trailer, usage of trailer, date of removal, the amount of the fine and delay of City decision for temporary permit.

Mr. Slayton made a motion to find case C2011-0367 Item A in violation with a fine of \$7000.00 and to bring property into compliance by 5:00 PM on Tuesday, August 23, 2011; if in compliance, reduce fine to zero or be fined an additional \$250 per day until in compliance; second by Ms. Arvidson. Motion carried unanimously upon roll call, 5-0.

VI. NEW BUSINESS:

C2011-0183 PPTS 1 LLC 806 Hamilton St

- A) Permitting or causing to be permitted a structure used for human occupancy to exist that has not tied into the public sewer below.

Officer Bobelak stated that this case is being withdrawn.

VII. REPEAT BUSINESS:

C2011-0356: All Phases, LLC 300 Milford Place Served

- A) Construction without first obtaining the required permit in violation of §26-171. Of the City Code of Ordinances.

October 19th, 2010: Board entered an Order finding Michael Shane Miller, All Phases, LLC in violation of §26-171. of the City Code of Ordinances, no fine imposed.

November 16th, 2010: Board entered an Order finding Michael Shane Miller, All Phases, LLC in violation of §26-171. of the City Code of Ordinances, \$100.00 fine was imposed.

July 19th, 2011: Board entered an Order finding Michael Shane Miller, All Phases, LLC in violation of §26-171. Of the City Code of Ordinances, \$500.00 fine was imposed for each and every day until a permit is issued. Fine totaling \$1000.00.

Mr. Shelby noted for the record that no one was present to represent this case.

Mr. Shelby asked Staff for a recommendation.

Officer Bobelak stated All Phases accepted the certified mail July 20 and the permit submitted on July 20, 2011 and issued on July 21, 2011 for a fine totaling \$1000.00 for 2 days of non-compliance. Officer Bobelak further stated the Board's Order was to fine him \$500 per day until the permit is issued.

Discussion ensued among Staff and the Board regarding the number of offenses, if past fines have been paid, any communications why permit not obtained, length of time to issue permit, any delay on City's part to issue permit and method for calculating fines.

Ms. Palmer made a motion to impose a fine of \$500 and find Mr. Miller in compliance; seconded by Ms. Arvidson. Motion carried unanimously upon roll call, 5-0.

VIII. ADJOURNMENT:

Ms. Arvidson made the motion to adjourn; seconded by Ms. Cooley. All agreed and the hearing adjourned at 5:25 P.M.